

### **REMARKS**

Claims 1-43 were originally filed in this application. By way of this amendment, claims 1-3, 16, 18, 34, 37, and 38 are amended, and claim 43 is canceled. Accordingly, claims 1-42 are pending and at issue.

#### **Response to noncompliant Information Disclosure Statement**

In the outstanding office action, the non-patent literature in the Information Disclosure Statement was not considered due to the literature's apparent poor quality. Applicants hereby include a Second Supplemental Information Disclosure Statement along with a petition and corresponding fees under 37 C.F.R. § 1.91(a)(3), such that the examiner can fully consider the non-patent literature. A sample or model of the non-patent literature accompanies the Second Supplemental Information Disclosure Statement.

#### **Response to Claim Objections**

Claims 3 and 38 were objected to for certain informalities. Applicants have amended claims 3 and 38 by deleting the word 'the' and replacing the term 'pacing' with 'placing', respectively, as suggested by the examiner.

#### **Response to the 35 U.S.C. § 102(b) rejections**

Claims 34, 35, 37, and 40 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 3,752,121 ("Brazzell"). Claim 34, as amended, recites "placing the litter mat adjacent to the litter box for collecting cat litter escaping confines of the litter box." Applicants respectfully submit that *Brazzell* fails to disclose each and every element of the claims and, therefore, fails to anticipate the rejected claims.<sup>1</sup>

*Brazzell* discloses an animal commode that includes a plastic tray and a disposable mat. As seen in Figs. 1 and 3, the disposable mat is shaped to fit inside a wall of the plastic tray and is intended to directly receive the pet's 'business'. (Column 3, line 18). More

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<sup>1</sup> "Anticipation under 35 U.S.C. § 102 requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention." *Rockwell International Corp. v. United States*, 47 USPQ2d 1027 (Fed. Cir. 1998).

specifically, a lower layer of the disposable pad absorbs the urine deposited on the disposable pad, and the pet's feces must be brushed off into a toilet or must otherwise be disposed. (Column 3, lines 2-4 and column 3, lines 26-28). As such, *Brazzell* does not disclose a litter mat that is adjacent to a litter box for collecting cat litter escaping confines of the litter box as is recited in claim 34. Instead, *Brazzell* discloses a disposable mat that is located within the confines of the litter box and that directly receives the pet's urine and feces.

The applicants, therefore, respectfully submit that the anticipation rejection of claim 34 and its dependent claims 35, 37, and 40, should be withdrawn.

Response to the 35 U.S.C. § 103(a) rejections

Claims 1-3 and 9-16 were rejected under 35 U.S.C. § 103(a) as obvious over *Brazzell* in view of U.S. Patent No. 4,271,544 ("Hammond") and U.S. Patent No. 5,233,787 ("Andersen"). None of these references, however, provide motivation to combine, nor do any of the references disclose, teach or suggest "a perimeter having an edge portion shaped to correspond to an exterior contour portion of the litter box, wherein the litter mat retains litter exiting the litter box," as is recited in amended claim 1. As a result, a *prima facie* case of obviousness has not been established with respect to claim 1.<sup>2</sup>

As discussed previously, *Brazzell* discloses an animal commode including a plastic tray and a disposable mat. The disposable mat is shaped to fit inside a wall of the plastic tray and is intended to directly receive the pet's urine and feces.

*Hammond* discloses an animal commode including a base member having an opening that is surrounded by a box-like enclosure. An exterior portion of the base includes a platform which may be covered with a grass-like material to provide a covering of the type cats enjoy scratching. (Column 2, lines 61-63). The opening may further include a mechanically operated trapdoor actuated by the weight of an animal positioning itself within the enclosure. The commode is mounted over a separate waste receiving tray or receptacle, into which the animal's urine and feces is deposited.

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<sup>2</sup> "To establish a *prima facie* case of obviousness, ... there must be some suggestion or motivation ... to modify the references or to combine reference teachings ... [, and] the prior art reference (or references when combined) must teach or suggest 'all' the claimed limitations. (Internal quotations added). See MPEP § 2142.

*Andersen* discloses a pile mat on which pets can sleep and that eliminates vermins on the pets. The surface of the pile mat is impregnated with an insecticide that is dispensed therefrom by contact with the pet or by evaporation. The pile mat has a water proof backing and a napped primary texture fastened thereto, whereby the nap yarns and the primary texture have been supplied with the insecticide.

The proposed modifications to the references, however, render the references unsatisfactory for their intended purpose and/or change the principle of operation of the references and, as such, these references cannot provide any suggestion or motivation to be modified or combined.<sup>3</sup> For example, the express teaching in *Brazzell* that the animal urinate and defecate on the mat would be destroyed by providing a litter box for urination and defecation. Similarly, the express teaching in *Hammond* that the animal not touch the litter or chemical aqueous solution would be destroyed by causing the animal to touch the litter in the litter box. Lastly, the teaching in *Andersen* that the mat be a bed for animals would be destroyed by causing the animal to sleep in feces and urine latent litter.

Thus, any combination of these references would destroy their express teachings, making the rejection improper.

Additionally, any combination of *Hammond*, *Brazzell*, and *Andersen* “teaches away” from the present invention.<sup>4</sup> For example, *Brazzell* teaches for the animal to urinate and defecate on the mat, which wholly eliminates the use for litter. If litter was used with *Brazzell*, it would soak up all the urine and would be difficult to remove from the mat. Similarly, *Hammond* teaches a device where it is intended that the animal has no contact with the litter at all, and *Andersen* teaches and suggests a mat on which animals can rest or sleep. It would be far reaching to suggest that a person of ordinary skill in the art would use a mat on which animals sleep to also remove urine and feces latent litter from the animal.

Thus, there is no motivation or suggestion to combine. Therefore, the rejection is improper for at least this additional reason.

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<sup>3</sup> See MPEP § 2143.01.

<sup>4</sup> “A prior art reference may be considered to teach away when a ‘person of ordinary skill, upon reading the references, would be discouraged from following the path set out in the references, or would be led in a direction divergent from the path that was taken by the applicant.’ *Monarch Knitting Machinery Corp. v. Sulzer Morat GmbH*, 139 F.3d 877, 885 (Fed. Cir. 1998).

Even if, however, there was motivation to combine, none of these references, discloses, teaches, or suggests "a perimeter having an edge portion shaped to correspond to an exterior contour portion of the litter box, wherein the litter mat retains litter exiting the litter box," as is recited in claim 1. More specifically, the mats disclosed in *Hammond*, *Brazzell*, and *Andersen* do not correspond to an exterior contour portion of the litter box. The mat in *Brazzell* is disposed inside the litter box, the mat in *Hammond* is disposed on top of the litter box, and the pad in *Andersen* is not even used in combination with a litter box at all. Additionally, the animal commodes disclosed in *Hammond* and *Brazzell* do not even use litter with which the animal comes into contact with and, as such, the mat or grass-like materials disclosed therein cannot teach or suggest a mat to retain litter from a litter box. Similarly, the mat in *Andersen* teaches and suggests the inclusion of pesticides to kill vermins, but does not teach or suggest a mat to retain litter from a litter box.

The applicants, therefore, respectfully submit that the obviousness rejection of claim 1 and its depended claims 2, 3, and 9-16 be withdrawn.

Claims 4, 5, and 17 depend from claim 1 and were rejected as obvious over *Brazzell* in view *Hammond* and *Andersen* further in view of U.S. Patent No. 6,386,143 ("Link"). *Link* discloses a stepping pad for collecting and recycling litter material lodged in the paw of an animal. The stepping pad includes a base having a wall extending along a peripheral edge of the base and a plurality of elongated raised members. A litter box is placed in close proximity to an open portion of the base, such that when the animal exits the litter box and steps onto the stepping pad, the litter materials lodged in its paw are dislodged when the paw contacts the plurality of elongated raised members.

As previously discussed, there is no motivation to combine *Brazzell*, *Hammond* and *Andersen* to arrive at the claimed invention, as none of the references provide a teaching to use a mat to retain litter from a litter box. As a matter of fact, *Brazzell* teaches defecation on the mat, *Hammond* teaches scratching the mat, and *Andersen* teaches sleeping on the mat. As a result, any combination of *Brazzell*, *Hammond* and *Andersen* with *Link* cannot teach or suggest the claimed invention. The applicants, therefore, respectfully submit that the obviousness rejection of claims 4, 5, and 17 be withdrawn.

Claims 6-8 depend from claim 1 and were rejected as obvious over *Brazzell* in view *Hammond* and *Andersen* further in view of U.S. Patent No. 3,332,828 ("Faria"). *Faria*

discloses a monofilament ribbon pile product that is intended to provide a synthetic product which simulates the physical characteristic and general appearance of turf. (Column, 1, lines 44-46). As previously discussed, there is no motivation to combine *Hammond*, *Brazzell*, and *Andersen*, and *Faira* does not provide such motivation. Instead, *Faira* teaches or suggests a monofilament ribbon pile product as a replacement for turf. The applicants, therefore, respectfully submit that the obviousness rejection of claims 6-8 be withdrawn.

Claim 18 and its dependent claims 19, 23, 24, and 29-32 were rejected as obvious over *Brazzell* in view of *Hammond*. Claim 18, as amended, recites "a plurality of tufts woven through the base and extending in an angled upwardly direction therefrom, wherein the litter mat retains litter exiting the litter box." As previously discussed neither *Brazzell* nor *Hammond* disclose, teach or suggest a litter mat retains litter exiting the litter box and, as such, the obviousness rejection of these claims should be withdrawn.

Claims 20, 21, and 27 depend from claim 18 and were rejected as obvious over *Brazzell* in view of *Hammond* further in view of *Faria*. As previously discussed, there is no motivation to combine these references and, as such, the obviousness rejection of these claims should be withdrawn.

Claims 22 and 28 depend from claim 18 and were rejected as obvious over *Brazzell* in view of *Hammond* further in view of *Andersen*. As previously discussed, there is no motivation to combine these references and, as such, the obviousness rejection of these claims should be withdrawn.

Claims 25, 26, and 33 depend from claim 18 and were rejected as obvious over *Brazzell* in view of *Hammond* further in view of *Link*. As previously discussed, there is no motivation to combine these references and, as such, the obviousness rejection of these claims should be withdrawn.

Claim 36 depends from claim 34 and was rejected as obvious over *Brazzell* in view of *Hammond*. Claim 34, as amended, recites "placing the litter mat adjacent to the litter box for collecting cat litter escaping the confines of the litter box." As argued in the response to the § 102 rejection, *Brazzell* does not disclose a litter mat that is adjacent to a litter box for collecting cat litter escaping from the litter box as is recited in claim 34. Instead, *Brazzell* discloses a disposable mat that is located within the confines of the litter box and that directly receives the pet's urine and feces. Similarly, *Hammond* does not disclose such a litter mat.

Instead, *Hammond* discloses a grass-like material disposed around an exterior portion of a base that covers a separate waste receiving tray or receptacle. As a result, a *prima facie* case of obviousness has not been established with respect to claim 34 and 36, as the combination of *Brazzell* and *Hammond* do not teach or suggest all of the claimed limitations. Additionally, as previously discussed, there is no motivation to combine these references. Accordingly, the obviousness rejection of claim 36 should be withdrawn.

Claims 38 and 39 depend from claim 34 and were rejected as obvious over *Brazzell* in view of *Link*. As previously discussed, there is no motivation to combine these references and, as such, the obviousness rejection of these claims should be withdrawn.

Claim 41 depends from claim 34 and was rejected as obvious over *Brazzell* in view of *Faria*. As previously discussed, there is no motivation to combine these references and, as such, the obviousness rejection of these claims should be withdrawn.

Claim 42 depends from claim 34 and was rejected as obvious over *Brazzell* in view of *Faria* further in view of *Andersen*. As previously discussed, there is no motivation to combine these references and, as such, the obviousness rejection of these claims should be withdrawn.

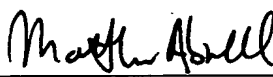
In light of the foregoing, the prompt issuance of a notice of allowance is respectfully solicited. Should the examiner have any questions, he is respectfully invited to telephone the undersigned.

Respectfully submitted,

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